



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

February 19, 2003

Ms. Denise Obinegbo  
Open Records Specialist  
Richardson Police Department  
P. O. Box 831078  
Richardson, Texas 75083-1078

OR2003-1081

Dear Ms. Obinegbo:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176786.

The Richardson Police Department (the "department") received a request for information pertaining to a specified address for a specified period of time. You state that you have provided the requestor with some responsive information. You claim that some of the requested information is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Initially, we note that we previously addressed a portion of the submitted information in Open Records Letter No. 2002-0624 (2002). Specifically, we ruled in that decision that the department must release copies of all documents that had been filed with a court pursuant to section 552.022(a)(17) and could withhold the remaining submitted information that had not already been released pursuant to section 552.108(a)(1) of the Government Code. You do not inform us, nor are we aware, of any changes with regard to the law, facts, and circumstances on which that ruling was based. Accordingly, we conclude that the department must rely on our decision in Open Records Letter No. 2002-0624 (2002) with respect to the information requested in this instance. *See* Gov't Code § 552.301(f); *see also* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, the first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, the ruling is addressed to the same governmental body, and the ruling concludes that the information is or is not excepted from disclosure).

You claim that the submitted documents pertaining to service number 01-007626 are excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. You state that the submitted documents pertaining to service number 01-007626 pertain to a case that was "cleared as '[i]nformation [o]nly' on February 20, 2001." We understand from this representation that the department contends that the case pertaining to service number 01-007626 has concluded in a final result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to service number 01-007626.

We note that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public). Accordingly, with the exception of basic information that must be released, we conclude that the department may withhold the submitted information pertaining to service number 01-007626 pursuant to section 552.108(a)(2) of the Government Code.

We note that criminal history record information ("CHRI") is confidential and not subject to disclosure under the Public Information Act. Section 552.101 of the Government Code excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." *See* Gov't Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential. Federal regulations prohibit the release of CHRI maintained in state and local CHRI systems to the general public. *See* 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given."), (2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). Section 411.083 of the Government Code provides that any CHRI maintained by the Department of Public Safety ("DPS") is confidential. Gov't Code § 411.083(a). Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *See id.* § 411.084; *see also id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also

apply to CHRI obtained from other criminal justice agencies). Accordingly, assuming that the remaining submitted information includes CHRI that falls within the ambit of these state and federal regulations, the department must withhold it from the requestor.

You also claim that portions of the information at issue are excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts information from disclosure that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. After carefully reviewing your arguments and the remaining information at issue, we find that no portion of the information consists of motor vehicle information that is subject to section 552.130. Accordingly, we conclude that the department may not withhold any portion of the remaining information at issue under section 552.130 of the Government Code.

In summary, the department must rely on our decision in Open Records Letter No. 2002-0624 (2002) with respect to the information requested in this instance. With the exception of basic information that must be released, the department may withhold the submitted information pertaining to service number 01-007626 pursuant to section 552.108(a)(2) of the Government Code. Assuming that the remaining submitted information includes CHRI that falls within the ambit of state and federal regulations, the department must withhold it from the requestor. The department must release the remaining submitted information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).


If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/lmt

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Enc. Marked documents

c: Mr. Parviz Jahed  
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(w/o enclosures)